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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,007	11/26/2001	David Smadja	BAZ-US-1	5854
466	7590	11/03/2004	EXAMINER PHAM, TUAN	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			ART UNIT 2643	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,007

Applicant(s)

SMADJA ET AL.

Examiner

TUAN A PHAM

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/26/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Tichy et al. (U.S. Patent No.: 4,039,765; hereinafter, "Tichy").

Regarding claim 1, Tichy teaches a receiver, particularly a mobile telephone receiver (i.e., headset), of the type comprising a casing and a holding element connected thereto by at least one slidably retractable band (see figure 1, col.1, ln7-9, col.2, ln.1-16), wherein one of the ends of the casing comprises a cylindrical rotation element which controls rotation of the band with respect to the casing about its principal axis (see figure 4, head band 3, cylindrical pivot 33, col.2, ln.27-47).

Regarding claim 2, Tichy further teaches the receiver wherein the band is mounted to slide with respect to the rotation element (see col.2, ln.7-47).

Regarding claim 3, Tichy further teaches the receiver wherein the band is mounted to slide in the rotation element (see col.2, ln.27-47).

Regarding claim 4, Tichy further teaches the receiver wherein the band is mounted to rotate with respect to the rotation element (see col.2, ln.27-47).

Regarding claim 5, Tichy further teaches the receiver wherein the band is mounted to slide in a receiving band (see col.2, ln.27-47).

Regarding claim 6, Tichy further teaches the receiver wherein the receiving band is fast with the rotation element (see col.2, ln.27-47).

Regarding claim 7, Tichy further teaches the receiver wherein the free end of the band is connected to another band via articulation means (see col.2, ln.27-47).

Regarding claim 8, Tichy further teaches the receiver wherein the articulation means are such that the bands are capable of occupying a rest position in which they are applied against each other (see figure 4, col.2, ln.27-47).

Regarding claim 9, Tichy further teaches the receiver wherein this other band is itself mounted to slide in a sheath fast with the holding element (see col.2, ln.7-16).

Regarding claim 10, Tichy further teaches the receiver wherein the band is mounted to slide in the casing (see col.2, ln.7-16).

Regarding claim 11, Tichy further teaches the receiver wherein the rotation element is mounted to rotate about a physical axis fast with the casing (see col.2, ln.7-47).

Regarding claim 12, Tichy further teaches the receiver wherein the rotation element is guided in rotation by guiding elements disposed on the periphery thereof (see figure 4, col.2, ln.27-47).

Regarding claim 15, Tichy further teaches the receiver wherein the rotation element is provided with means for indexing its position in rotation (see col.2, ln.7-47).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tichy et al. (U.S. Patent No.: 4,039,765, hereinafter, "Tichy") in view of Skulley et al. (U.S. Patent No.: 6,662,029, hereinafter, "skulley").

Regarding claim 13, Tichy teaches a receiver, particularly a mobile telephone receiver (i.e., headset), of the type comprising a casing and a holding element connected thereto by at least one slidably retractable band (see figure 1, col.1, ln7-9, col.2, ln.1-16), wherein one of the ends of the casing comprises a cylindrical rotation element which controls rotation of the band with respect to the casing about its principal axis (see figure 4, head band 3, cylindrical pivot 33, col.2, ln.27-47), and the band is mounted to slide in the casing (see col.2, ln.7-16).

It should be noticed that Tichy fails to clearly teach the casing has a longitudinal recess hollowed out therein, intended to receive the band when it is introduced in the casing, the radius of curvature of the band and that of this recess having different values, so that the band undergoes an effort of curvature when it is being introduced in and extracted from this recess. However, Skulley teaches such features (see figure 1B, col.3, ln.8-18, col.4, ln.1-8, ln.56-67) for a purpose of outwardly extending the headband.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the casing has a longitudinal recess hollowed out therein, intended to receive the band when it is introduced in the casing, the radius of curvature of the band and that of this recess having different values, so that the band undergoes an effort of curvature when it is being introduced in and extracted from this recess, as taught by Skulley, into view of Tichy in order to provide a comfortable headband headset that can be easily to allow size adjustment.

Regarding claim 14, Skulley further teaches wherein at least one of its bands is formed by two parallel elements (see figure 1A, first edge 108, second edge 110, col.4, ln.8-26).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In order to expedite the prosecution of this application, the applicants are also requested to consider the following references. Although Nageno et al. (U.S. Patent No. 5,406,037), Matsumoto et al. (U.S. Patent No. 4,027,113), Sakurai (U.S. Patent No. 5,581,622), and Nishimoto (U.S. Patent No. 5,987,147) are not applied into this Office Action; they are also called to Applicants attention. They may be used in future Office Action(s). These references are also concerned for supporting the apparatus and method for headphone including means for mounting belt-like suspender.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan A. Pham** whose telephone number is (703) 305-4987. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz can be reached on (703) 305-4708 and

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Art Unit: 2643

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist, tel. No. 703-305-4700).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit 2643
October 6, 2004
Examiner

Tuan Pham



HUYEN LE
PRIMARY EXAMINER



CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
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